

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5258 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

AHMEDABAD NAGAR EMPLOYEES UNION

Versus

STATE OF GUJARAT

Appearance:

MR JS PARASHAR for Petitioner
MR MUKESH PATEL for Respondent No.1 & 2
None present for Respondent No. 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 08/10/1999

ORAL JUDGEMENT

#. Having heard the learned counsel for the parties and going through the contents of document, annexure-E, i.e. the order of the State Government declining to refer the industrial dispute as raised by petitioner-Union for adjudication to the Labour Court/ Industrial Tribunal, as the case may be, I am satisfied that it is a clear order

which can be put under the category of `perverse order'.

#. The petitioner sought to raise industrial dispute that though its members have been working as contract labourers under the contractor, for respondent No.3, the work that they are doing is absolutely of permanent nature and this contract system is wholly a fraud on the constitutional provisions as well as it incurs loss to them and that they should have been taken to be the permanent employees of the respondent No.3.

#. This is the dispute which has to be decided by the Labour Court or Industrial Tribunal, as the case may be, and not by the State Government. The State Government has acted arbitrarily in deciding the matter against the petitioner-Union under its order dated 30th June 1989, annexure-E, on the ground that the contractor is a separate establishment than the respondent No.3 and the respondent No.3 cannot be compelled to absorb the workmen of some other establishment and to give them all the benefits as prayed for.

#. In the result, this special civil application is allowed and the order dated 30th June 1989, annexure-E, is quashed and set aside and the respondent-State of Gujarat is directed to refer the dispute to the appropriate Labour Court or Industrial Tribunal, as the case may be, forthwith. Rule is made absolute in aforesaid terms with no order as to costs.

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[sunil]